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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,332	10/31/2001	Donna M. Lomangino	11922-35832	5216

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LITMAN LAW OFFICES, LTD
PO BOX 15035
CRYSTAL CITY STATION
ARLINGTON, VA 22215

EXAMINER

WINTER, JOHN M

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/003,332	Applicant(s) LOMANGINO, DONNA M.	
	Examiner John M. Winter	Art Unit 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-29 and 31-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-29 and 31-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Status

Claims 21-29,31-39 remain pending.

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Response to Arguments

The Applicants arguments filed on June 18, 2005 have been fully considered.

The examiner submits that pending claims are rejected in view of the newly discovered reference www.craigslist.org (June 2000)

See following rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-29 and 31-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Himmelstein (US Patent Application Publication 2002/0038278).

As per Claim 21,

Himmelstein ('278) discloses a method for facilitating recirculation of goods, said comprising.

providing a recirculation website (Figure 1);

receiving information regarding a good from a donor, the good being chattel property or other physical item;(Figure 4A)

posting information regarding the good on the recirculation website(Figure 4A),

receiving a request from a recipient for the posted good; (Figure 4D)

facilitating transfer of the good from the donor to the recipient without any remuneration occurring between the donor and the recipient.(Paragraph 23)

The Examiner notes that although Himmelstein et al does not specifically state that no remuneration between the donor and recipient occurs, he does disclose that a virtual money

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system is used, the Examiner contends that it would be obvious the exchange of virtual money is does not qualify as receiving compensation since the virtual money has no inherent value.

Himmelstein does not explicitly disclose providing the recirculation website with a homepage, receiving information regarding a good from a donor, the good being chattel property or other physical item. WWW.Craigslist.org discloses providing the recirculation website with a homepage, receiving information regarding a good from a donor, the good being chattel property or other physical item. (page 2 [FREE HP laser printer for non-profit], page 7 [provides information on item]) it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the Himmelstein and www.craigslist.org methods in order to allow a user to browse for an item offered locally.

The term "with links including "Business, charity, everyone, everyone (categories), browse to get, featured items and urgent requests" is a non-functional descriptive item. The term "with links including "Business, charity, everyone, everyone (categories), browse to get, featured items and urgent requests" could be replaced with other terms. i.e. "personal, my homepage, ." , etc and not change the limitations of the claim. PTO's guidelines for examining claimed language require: the examiner must make a determination, whether the claimed invention "as a whole" would have been obvious at the time of invention to one of ordinary skill in the art. See MPEP 2142. In the pending claim, the examiner submits that particular language does not serve as a limitation on the claim. In other words **language that is not functionally interrelated with useful acts, structure, or properties of the claimed invention will not serve as a limitation.** See in re Gulak, 217 USPQ 401 (CAFC 1983), *ex parte Carver*, 227 USPQ 465 (BdPatApp& Int 1985) and *in re Lowry*, 32 USPQ2d 1031 (CAFC 1994) where language provided certain limitations because of specific relationships required by the claims

The MPEP states " Nonfunctional Descriptive material that cannot exhibit any functional interrelationship with the way in which computing processes are performed does not constitute a statutory process, machine, manufacture or composition of matter and should be rejected under 35 U.S.C. 101. Thus, Office personnel should consider the claimed invention as a whole to determine whether the necessary functional interrelationship is provided.

Where certain types of descriptive material, such as music, literature, art, photographs and mere arrangements or compilations of facts or data, are merely stored so as to be read or outputted by a computer without creating any functional interrelationship, either as part of the stored data or as part of the computing processes performed by the computer, then such descriptive material alone does not impart functionality either to the data as so structured, or to the computer. Such "descriptive material" is not a process, machine, manufacture or composition of matter. (Data consists of facts, which become information when they are seen in context and convey meaning to people. Computers process data without any understanding of what that data represents. Computer Dictionary 210 (Microsoft Press, 2d ed. 1994).)

The policy that precludes the patenting of nonfunctional descriptive material would be easily frustrated if the same descriptive material could be patented when claimed as an article of manufacture. For example, music is commonly sold to consumers in the format of a compact disc. In such cases, the known compact disc acts as nothing more than a

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carrier for nonfunctional descriptive material. The purely nonfunctional descriptive material cannot alone provide the practical application for the manufacture. Office personnel should be prudent in applying the foregoing guidance. Nonfunctional descriptive material may be claimed in combination with other functional descriptive multi-media material on a computer-readable medium to provide the necessary functional and structural interrelationship to satisfy the requirements of 35 U.S.C. 101. The presence of the claimed nonfunctional descriptive material is not necessarily determinative of nonstatutory subject matter. For example, a computer that recognizes a particular grouping of musical notes read from memory and upon recognizing that particular sequence, causes another defined series of notes to be played, defines a functional interrelationship among that data and the computing processes performed when utilizing that data, and as such is statutory because it implements a statutory process.”

As per Claims 22 and 32,
Himmelstein ('278) discloses the method according to claim 21,
further comprising classifying recipient within a predefined class and the donor within a predefined class. (Paragraph 39, Himmelstein sorts users into groups of traders)

Claim 32 is in parallel with claim 22 and is rejected for at least the same reasons.

As per Claims 23 and 33,
Himmelstein ('278) discloses the method according to claim 22, further comprising
Determining whether the predefined class of the recipient is eligible to request the posted good. (Paragraph 39, Himmelstein uses a filter function to disqualify undesirable recipients)

Claim 33 is in parallel with claim 23 and is rejected for at least the same reasons.

As per Claims 24 and 34,
Himmelstein ('278) discloses the method according to claim 21,
Official Notice is taken that “Registering the recipients on the website and classifying the registered recipients and donors within classes” is common and well known in prior art in reference to charitable donation systems. It would have been obvious to one having ordinary skill in the art at the time the invention was made to register recipients on a website in order to reduce the potential of fraudulent usage.

Claim 34 is in parallel with claim 24 and is rejected for at least the same reasons.

As per Claims 25 and 35,
Himmelstein ('278) discloses the method according to claim 24, further comprising
Official Notice is taken that “identifying posted good to recipients of predetermined classes previously ineligible to request the posted after a predetermined period of time in which the posted good remains available for retrieval by recipient member of a predefined class eligible to request the posted good” is common and well known in prior art in reference to charitable

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donation systems. It would have been obvious to one having ordinary skill in the art at the time the invention was made to allow initially undesignated members to claim an item after a period of time has passed in order to reduce the amount of "onhand" inventory in the system and reduce the need for physical storage space.

Claim 35 is in parallel with claim 25 and is rejected for at least the same reasons.

As per Claims 26 and 36,
Himmelstein ('278) discloses the method according to claim 21,
Classifying recipients and donors in a predefined class for charity/non-profit organizations. (Figure 9A, paragraph 30)

Claim 36 is in parallel with claim 26 and is rejected for at least the same reasons.

As per Claims 27 and 37,
Himmelstein ('278) discloses the method according to claim 21, further comprising
Classifying recipients and donors in a predefined class for business/individual entities.
(Figure 9A, paragraph 30)

Claim 37 is in parallel with claim 27 and is rejected for at least the same reasons.

As per Claims 28 and 38,
Himmelstein ('278) discloses the method according to claim 21, further comprising
recipients and donors in a predefined class for any entity. (Figure 9A, paragraph 30)

Claim 38 is in parallel with claim 28 and is rejected for at least the same reasons.

As per Claims 29 and 39,
Himmelstein ('278) discloses the method according to claim 21, further comprising
soliciting donor to transfer the posted good to the recipient. (Figure 8)

Claim 39 is in parallel with claim 29 and is rejected for at least the same reasons.

As per Claim 31,
Himmelstein ('278) discloses a system facilitating recirculation of goods, said system comprising:

- a recirculation web server with a processor,(Figure 1)
- a recirculation website associated with the recirculation web server, the recirculation website being a global repository of goods posted for recirculation, and for facilitating recirculation of goods between donors and recipients without any economic remuneration occurring between donors and recipients;(Figure 1)
- recirculation software carried on a computer readable medium;

wherein said recirculation software, when executed by the processor, causes the software

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to carry out steps comprising: (Figure 1)

posting information regarding the good on the recirculation website',
receiving a request from a recipient for the posted good; (Figure 4A)

facilitating transfer of the good from the donor to the recipient without any remuneration occurring between the donor and the recipient. (Paragraph 23)

The Examiner notes that although Himmelstein et al does not specifically state that no remuneration between the donor and recipient occurs, he does disclose that a virtual money system is used, the Examiner contends that it would be obvious the exchange of virtual money is does not qualify as receiving compensation since the virtual money has no inherent value.

Himmelstein does not explicitly disclose providing the recirculation website with a homepage, receiving information regarding a good from a donor, the good being chattel property or other physical item. WWW.Craigslist.org discloses providing the recirculation website with a homepage, receiving information regarding a good from a donor, the good being chattel property or other physical item. (page 2 [FREE HP laser printer for non-profit], page 7 [provides information on item]) it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the Himmelstein and www.craigslist.org methods in order to allow a user to browse for an item offered locally.

The term "with links including "Business, charity, everyone, everyone (categories), browse to get, featured items and urgent requests" is a non-functional descriptive item. The term "with links including "Business, charity, everyone, everyone (categories), browse to get, featured items and urgent requests" could be replaced with other terms. i.e. "personal, my homepage, .", etc and not change the limitations of the claim. PTO's guidelines for examining claimed language require: the examiner must make a determination, whether the claimed invention "as a whole" would have been obvious at the time of invention to one of ordinary skill in the art. See MPEP 2142. In the pending claim, the examiner submits that particular language does not serve as a limitation on the claim. In other words **language that is not functionally interrelated with useful acts, structure, or properties of the claimed invention will not serve as a limitation.** See *in re Gulak*, 217 USPQ 401 (CAFC 1983), *ex parte Carver*, 227 USPQ 465 (BdPatApp& Int 1985) and *in re Lowry*, 32 USPQ2d 1031 (CAFC 1994) where language provided certain limitations because of specific relationships required by the claims

Conclusion

Examiners note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

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Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the examiner should be directed to John Winter whose telephone number is (571) 272-6713. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **James Trammell** can be reached at (571) 272-6712.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 305-7687 [Official communications; including After Final communications labeled "Box AF"]
(703) 308-1396 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to the Examiner in the Knox Building, 50 Dulany St. Alexandria, VA.

JMW
July 19, 2005

James Trammell
Primary Examiner
3621